

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

PHILIP ANDRES; MCNUTT, *et al.*,
ROBERT JAMES STEWART, *et*
al.,

Plaintiffs [Petitioners],

v.

CHELAN COUNTY, *et al.*,

Defendants [Respondents].

NO. CV-07-288-RHW

**ORDER DISMISSING MOTIONS
FOR EXECUTION AND WRIT
OF HABEAS CORPUS**

Before the Court is the Plaintiffs/Petitioners' Motions for Execution and Writ of Habeas Corpus (Ct. Rec. 1). Plaintiffs/Petitioners have not paid the filing fee and have not requested leave to proceed in forma pauperis.

It appears that Plaintiffs/Petitioners are seeking to have this Court void actions undertaken in the state courts and appear to be seeking relief for unlawful arrests. Federal habeas relief is only available to a petitioner who is in custody in violation of the Constitution of the United States. 28 U.S.C. § 2241(c). It appears from the petition that Petitioners are not in custody. Moreover, a writ of execution is proper when and where a judgment has been obtained. There is nothing in the petition that indicates that judgement has been obtained in this district or registered in another district. Consequently, it plainly appears that Petitioners are not entitled to the relief that they seek. Thus, pursuant to Rule 4 of the Rules Governing

**ORDER DISMISSING MOTIONS FOR EXECUTION AND WRIT OF
HABEAS CORPUS 1**

1 Section 2254 Cases, the petition is dismissed.¹

2 Accordingly, **IT IS HEREBY ORDERED:**

3 1. Plaintiffs/Petitioners' Motions for Writ of Execution and Writ of
4 Habeas Corpus (Ct. Rec. 1) is **DISMISSED**.

5 2. Plaintiffs/Petitioners' Request for Copies/Time to Response (Ct. Rec.
6 2) is **DENIED**, as moot.

7 **IT IS SO ORDERED.** The District Court Executive is directed to enter this
8 Order, forward copies to counsel and Plaintiffs, and close the file.

9 **DATED** this 29th day of August, 2008.

10
11
12 *s/Robert H. Whaley*

13 ROBERT H. WHALEY
14 Chief United States District Judge

15 Q:\CIVIL\2007\McNutt\dismiss.petition.wpd
16
17
18
19
20
21
22
23
24
25
26

27 ¹Habeas petitioner brought under § 2241 are subject to summary dismissal
28 pursuant to Rules 1(b) and 4 of the Rules Governing Section 2254 Cases.